

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Bodah 2	Team: Team # 5	CCRB Case #: 200301285	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/12/2003 10:40 PM	Location of Incident: 113th Precinct stationhouse	Precinct: 113	18 Mo. SOL 8/12/2004	EO SOL 8/12/2004	
Date/Time CV Reported Thu, 02/13/2003 8:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/19/2003 3:17 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Scott Carson	25682	915421	113 PCT
2. SSA George Norris	02464	894235	113 PCT
3. POM Donald Abrams	10343	921890	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Shannon Pearl	24161	907028	113 PCT
2. POF Rebecca Asman	19814	917252	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SSA George Norris	Abuse: Sergeant George Norris supervised a strip-search of § 87(2)(b)	
B.POM Scott Carson	Discourtesy: Officer Scott Carson spoke obscenely and rudely to § 87(2)(b)	
C.POM Scott Carson	Abuse: Officer Scott Carson threatened § 87(2)(b) with the use of force.	
D.POM Scott Carson	Force: Officer Scott Carson used physical force against § 87(2)(b)	
E.POM Donald Abrams	Force: Officer Donald Abrams used physical force against § 87(2)(b)	
F.SSA George Norris	Abuse: Sergeant George Norris supervised a cavity search of § 87(2)(b)	

Synopsis

On February 12, 2003, Officer Donald Abrams and Officer Scott Carson of the 113th Precinct Street Narcotics Enforcement Unit (SNEU) were making narcotics observations at the corner of 131st Street and Rockaway Boulevard (in the confines of the 106th Precinct) when they noticed § 87(2)(b) selling crack from a car. § 87(2)(b) was driving § 87(2)(b) and § 87(2)(b) was sitting in the back seat. The officers radioed a description of the car to Sergeant George Norris, Officer Rebecca Asman, and Officer Shannon Pearl, who were together in a nearby car waiting to apprehend suspects. § 87(2)(b)'s car was first pulled over and searched by unidentified plainclothes officers, then released. Sergeant Norris then pulled them over and Officer Pearl saw crack in plain view when she approached the car. § 87(2)(b) and § 87(2)(b) were all arrested and taken to the 113th Precinct.

At the precinct, the three men were strip searched in the 113th Precinct prisoner bathroom by Officer Carson and Officer Abrams. They were directly observed and supervised by Sergeant Norris, who stood in the open door of the prisoner bathroom during the strip searches (allegation A).

§ 87(2)(b) had earlier placed a plastic baggy containing eleven rocks of crack into his rectum. After he was completely naked, Officer Carson demanded that he “bend the fuck over” (allegation B) and spread his buttocks apart. § 87(2)(b) alleged that Officer Carson, frustrated with his level of cooperation, handcuffed § 87(2)(b) and used his handcuffed arms to bend his body over at the waist. § 87(2)(b) further alleged that at this time, Officer Carson threatened to use a taser on him (allegation C), kicked his feet apart, and kicked him once in the testicles (allegation D). As Officer Carson held § 87(2)(b) Sergeant Norris allegedly handed Officer Abrams a fisherman’s tool for pulling fishhooks from the mouths of fish, which they referred to as “the ass grabber.” Officer Abrams allegedly pinched § 87(2)(b)'s buttock once with the tool (allegation E), rubbed the tool once up and once down the crevasse between § 87(2)(b)'s buttocks, and then pushed the tool into the opening of § 87(2)(b)'s anus and pulled the baggy of crack out (allegation F). (This cavity search allegation is pled against Sergeant Norris because he directly supervised the search.)

§ 87(2)(g)

Summary of Complaint

This complaint was generated by IAB under log #03-03765 (enc. 5A-5B) on February 13, 2003, when § 87(2)(b)'s girlfriend, called the IAB command center. The log lists her as “§ 87(2)(b)” § 87(2)(b)'s mother) because, as § 87(2)(b) told IAB Group 54 Sergeant Adam Lamboy on February 14, 2003 (enc. 7A-7B), she pretended to be § 87(2)(b) when she called. § 87(2)(b) did not witness the incident, but reported that § 87(2)(b) was kicked in the testicles and unjustly arrested based on information she got from § 87(2)(b) over the phone. She also heard that officers placed a metal tool near § 87(2)(b)'s rectum and called him names. IAB was seeking § 87(2)(b) as a witness, and § 87(2)(b) referred to him as “charismatic, manipulating, manipulative, and deceitful.”

Group 54 kept the case for preliminary investigation. On February 24, 2003, after interviewing the principal witnesses, they referred the force allegations to the CCRB and the improper search allegations to the Queens South Investigations Unit (enc. 5D-5E). Sergeant James Micozzi the Queens South Investigations Unit informed the undersigned on February 26, 2003 that they had no record of the case (enc. 37A).

Results of Investigation

§ 87(2)(b) (*victim*)

February 13, 2003: § 87(2)(b) was interviewed by IAB Sergeant Francis Morris and Detective Adam Lamboy at Queens Central Booking (enc. 8A-9E). He stated that he and § 87(2)(b) and an Indian guy known to him only as § 87(2)(b) (identified by investigation as § 87(2)(b)) were stopped and searched by unidentified officers, then stopped again two minutes later. The second group of officers were a white male (identified by § 87(2)(b) and investigation as Sergeant Norris), a black female (identified by § 87(2)(b) and investigation as Officer Pearl) and a white female (identified by investigation as Officer Asman). They stopped the car at 130th Street and 116th Avenue in Queens, claiming that it had a broken taillight, and got everyone out of the car. After searching the car, they found “one piece” (of crack cocaine). § 87(2)(b) asked why he was being arrested, and was told he would be checked for warrants and released. Sergeant Norris searched him and noticed his heart was racing, then asked why he was so nervous. § 87(2)(b) alleged that Sergeant Norris then “put his hand in my ass.” § 87(2)(b) said Sergeant Norris “went in my butt,” “put his hand in my ass,” and “literally in my asshole.” IAB later spent some time trying to determine exactly what § 87(2)(b) was alleging, and it is relevant to quote the interview directly on this point:

IAB: When, back at the first time, that hand rubbed against your rectum, did that finger ever penetrate your rectum?
§ 87(2)(b) Yeah he was all up in my ...
IAB: [Interrupting] He went inside your ass? Did you feel a finger in your ass?
§ 87(2)(b) I felt a finger in my ass because the objects was removed. That’s why they took me. So they knew and he put his finger in my ass.

A little while later, § 87(2)(b) said, “I felt one finger, but two fingers was next to my asshole, but one finger actually rubbed inside my asshole.” IAB noted that § 87(2)(b) was wearing sweatpants secured with a drawstring. Sergeant Norris cuffed § 87(2)(b) and he was taken to the 113th Precinct. He was taken to the bathroom across the hall from the holding cell area by two officers that he had not seen at the arrest scene. One wore a brown shirt and took the lead in the strip search (identified by investigation as Officer Carson). The other wore a blue shirt and assisted Officer Carson (identified by investigation as Officer Abrams). Sergeant Norris was also around at times. The bathroom door was partially open during the strip search. Officer Carson had him remove his clothing piece by piece until he was completely naked, then had him turn around and bend over. Officer Carson then had him spread his buttocks apart, which he did. Officer Carson told him to open them further, and said, “See, you motherfucker, you don’t want to listen.” He cuffed § 87(2)(b) and used the handcuffs to lift his arms and force him to bend over more, then kicked his feet apart and kicked him once in the testicles. § 87(2)(b) complained and tried to turn around, but Officer Carson used the cuffs to turn him away and told him twice to “bend the fuck over.” § 87(2)(b)’s wrists were still sore at the time of the IAB interview, although his testicles did not hurt much anymore. Officer Carson said, “I’m going to get a taser for your big ass,” and § 87(2)(b) asked why they were going to taser him. Officer Carson bent § 87(2)(b) over the toilet and asked for the “ass grabber,” which Sergeant Norris took out from near a fan in the hallway outside the bathroom and handed to Officer Abrams. It was a tool like a long pair of pliers with a skinny neck. Officer Abrams put on gloves and used the tool to pinch § 87(2)(b) once on the ass. The officers were joking around. Officer Abrams told § 87(2)(b) “Open your ass,” and rubbed the tool once up and once down in the crevasse between § 87(2)(b)’s buttocks. He said, “I see it,” and reached the tool into § 87(2)(b)’s asshole and removed eleven pieces of crack cocaine. The drugs dropped onto the floor and Officer Abrams picked them up and put them in an envelope. Officer Carson then told § 87(2)(b) to “get fucking dressed” and threw his coat on the floor. § 87(2)(b) asked why he had to throw the coat on the floor and Officer Carson said, “You don’t even wipe your ass, you’ve got brown stains on your drawers, you want me to fucking pick up your coat? Fuck your coat.” IAB told § 87(2)(b) that since the Amadou Diallo incident, police bathrooms are videotaped, and § 87(2)(b) urged them to get the tape to confirm everything he was saying. The section in which IAB questioned § 87(2)(b) about the details of how the tool was used bears direct quoting:

IAB: Did he actually ever insert that metal tool into your rectum?
 § 87(2)(b) [Long pause] It was close to my rectum, it was damn near ...
 IAB: [Interrupting] Did he ever insert it?
 § 87(2)(b) Not insert ...
 IAB: [Interrupting] He just utilized it to pull out the drugs that you had secreted in ...
 § 87(2)(b) [Interrupting] Nah, he, he scraped that shit down my asshole, like, down my ass [indistinct] ...
 IAB: [Interrupting] I, I, I understand that, but I'm asking you, was it ever placed inside your rectum?
 § 87(2)(b) Yeah, because that's where the shit, that's where it was at.
 IAB: They reached in to pull it out?
 § 87(2)(b) Yeah ... Then, after he went like that [rubbing up and down with the tool], he inserted it and grabbed out, because the shit was in my asshole.
 IAB: Did you feel cold metal?
 § 87(2)(b) Yeah, cold metal all in my ass. He put his fucking shit in there and he pulled it out. It dropped on the floor and then he put it in an envelope.

February 21, 2003:

Detective Robert Capizutto of IAB Group 54 re-interviewed § 87(2)(b) at the § 87(2)(b) (enc. 8A-8B and 10A-10B). Two main issues were addressed. IAB first challenged the allegation from the first interview that Sergeant Norris put a finger in § 87(2)(b)'s anus at the arrest scene, asking how he could have put his hand inside § 87(2)(b)'s pants when they were held closed by a drawstring. § 87(2)(b) responded that he never intended to say that Sergeant Norris had actually inserted a finger inside his anus, but rather that he felt his anus through his sweatpants.

IAB then went over the details of how the tool was used to get the crack cocaine from § 87(2)(b)'s anus. However, it was ambiguous whether § 87(2)(b) backed away from asserting that the tool entered his rectum, or meant that the object did not pierce his skin (as if it were stabbing him). § 87(2)(b) consistently stated that the tool was in contact with his tissue and was used to pull the crack cocaine from inside his anus. The relevant section of the interview is quoted here directly, to show the nature of the confusion, apparently over the meaning of "penetrate."

IAB: Now with this metal rod, did they penetrate with the metal rod, or did they just pinch your cheeks?
 § 87(2)(b) He pinched my cheeks and he penetrated, because the shit was so far up my ass ...
 IAB: No, no, you gotta understand, I don't, I don't think you understand. Penetrating means, he took the, he took the rod, and inserted it into your body through your anal cavity.
 § 87(2)(b) No, he, matter of fact, he didn't go [indistinct] because the substance, what I had on me, was right there in my asshole. So he didn't go past whatever the object was.
 IAB: Oh, so he, he, he poked it in, and the object blocked it, and then the object fell out?
 § 87(2)(b) No, he took it, and grabbed it, but the metal was against my tissue, the metal was against my tissue, and then he pulled it out.
 IAB: OK, but the metal didn't go into your body.
 § 87(2)(b) No, he didn't insert it, he didn't stick it [indistinct] me.

March 7, 2003: The undersigned interviewed § 87(2)(b) on Rikers Island (enc. 11A-11C). He was a § 87(2)(b) year-old § 87(2)(b) black male § 87(2)(b). His statement was consistent with his IAB statements, with additional information and variations noted as follows. § 87(2)(b) (called "§ 87(2)(b)" by § 87(2)(b)) was first pulled over on Rockaway Boulevard by a champagne-colored Buick using flashing lights. Two unidentified plainclothes white male officers then searched the car and frisked § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) looking for guns. The interaction was friendly. The officers explained that they didn't usually work in the area but were doing checks due to a rash of recent shootings. They let the group go after checking them, and § 87(2)(b) had no complaint about this incident.

§ 87(2)(b) was stopped again, by Sergeant Norris' team, approximately two minutes later. The officers who had just searched them also came by. Officer Pearl searched § 87(2)(b)'s car while Sergeant Norris searched § 87(2)(b) saying they would be taken in and checked for warrants. § 87(2)(b) questioned this and Sergeant Norris said they found drugs in the car. As § 87(2)(b) was being put in the car, Sergeant Norris ran a finger along the outside of his sweatpants, feeling the crevasse between his buttocks. At the precinct, § 87(2)(b) still thought he was just being checked for warrants. An officer § 87(2)(b) hadn't seen before said, "Strip search." § 87(2)(b) was taken to the bathroom, to the right of the desk when facing it, diagonally across from the holding pens. The officers (identified by investigation as Officer Carson and Officer Abrams) who took § 87(2)(b) to the bathroom were not at either car stop. Officer Carson and Officer Abrams then took § 87(2)(b) and searched him as he previously described. § 87(2)(b) stated that the drugs found in his anus were eleven loose rocks of crack cocaine in a single plastic baggy, inserted deeply enough into his rectum that he was sure it was not visible. § 87(2)(b) confirmed that the gripping end of the tool entered his anal opening and pulled the baggy from inside his body. § 87(2)(b) believed that § 87(2)(b) cooperated with the officers and that they attributed some of § 87(2)(b)'s crack cocaine to § 87(2)(b) so they could reduce his charge. § 87(2)(b) claimed that he was charged with having 15 rocks of crack cocaine, but insisted that he had only eleven. § 87(2)(b) confirmed that § 87(2)(b) was dealing drugs, but would not speak about his own involvement out of fear of self-incrimination.

May 2, 2003: § 87(2)(b) viewed photo arrays and signed a verification form at the CCRB (enc. 12A-12G). He identified the officer in position #3 (Officer Carson) in lineup #6858, but did not know him by name. Officer Carson helped with the strip search, assisting the officer who kicked § 87(2)(b) in the testicles. Officer Carson did not take the lead. § 87(2)(b) incorrectly identified the officer in position #4 (no relation to case) as the main officer who Officer Carson was helping. In lineup #6859, § 87(2)(b) recognized no one (Sergeant Norris was in position #5). He incorrectly identified the officer in position #4 in lineup #6860 by name as Officer Pearl (Officer Pearl was in position #6).

The undersigned questioned § 87(2)(b) in light of the February 21, 2003 IAB interview, about exactly what happened when the drugs were taken from his anus. Verbatim quotes are presented for clarification:

Bodah: The second time that they interviewed you, they were asking you whether or not the tool penetrated your body ... I think you said that, yes, they put it inside of you.

§ 87(2)(b) Yeah, because that's how they, that's how they reached the, the substance ... they inserted it in my asshole and pulled it out. I'm not saying they went *all* the way in my asshole, but just right there for them to get it, right there, was enough. For them to get it, and pull it out.

Bodah: ... they seemed to be saying, "Well I don't think you understand what we mean by 'penetrated'" ... What we want to know is, this metal tool, did it go inside of the sphincter of your anus at all ... or was it, were they touching the outside of your body?

§ 87(2)(b) They touched my outside of my body in the beginning ... § 87(2)(b) then demonstrated by making a circle with his thumb and forefinger and indicated that the tool went past the opening of the anus to retrieve the crack.] But it did insert me. Because that was the only way they could get it out.

Bodah: So in that interview ... you told IAB that the tool was "in contact with my tissues."

§ 87(2)(b) [Interrupting] Yeah, yeah, the substance is in there, and then the pliers, probably like ... a couple of centimeters ... for them to pull it out.

Bodah: So ... just for the tape, because it doesn't show up on the tape ... you're holding your hand with your thumb and your forefinger in a circle, like it

was an anus ... [a]nd you're indicating that the tool actually did go inside the ring of the anus a couple of centimeters and was touching your tissues there.

§ 87(2)(b)

Yeah, that, it did.

Bodah:

Okay, and your basis for that, now, obviously this is behind you, you weren't able to see what was happening ... [y]our basis for that is based on...the sensation?

§ 87(2)(b)

No, I feel cold metal ... [t]he cold metal against my, um, tissues around my anus.

EMT § 87(2)(b) (witness):

IAB interviewed EMT § 87(2)(b) at Queens Central Booking on February 14, 2003 (enc. 13A). EMT § 87(2)(b) could not locate § 87(2)(b)'s medical screening form and believed that § 87(2)(b) did not allege having been kicked in the testicles or having had his object inserted into his rectum, because if he had made such statements a supervisor would have been notified and § 87(2)(b) would have been sent to the hospital.

§ 87(2)(b) (witness):

February 14, 2003: IAB interviewed § 87(2)(b) (enc. 14A-14B), who stated that he was with an unidentified woman in the area looking for drugs. He picked up § 87(2)(b) and the woman left. § 87(2)(b) then picked up § 87(2)(b). They were pulled over on 116th Avenue by officers identified by investigation as Officer Pearl, Officer Asman, and Sergeant Norris and taken out of the car. Officer Pearl searched the car and found drugs, so they were all arrested and searched. After being taken to the 113th Precinct, they were separately strip-searched in the bathroom by white male officers (identified by investigation as Officer Carson and Officer Abrams). § 87(2)(b) alleged no misconduct regarding the conduct of his strip search. He was in the holding cell when § 87(2)(b) and § 87(2)(b) were searched, and did not see the searches. When § 87(2)(b) came back after the search, he sat quietly and made no comments regarding his complaint to § 87(2)(b). § 87(2)(b) pled guilty to § 87(2)(b).

May 21, 2003: This investigator interviewed § 87(2)(b) (enc. 15A-15D), who made a statement consistent with his IAB testimony with additional details as follows. § 87(2)(b) made it clear that he would testify as a witness but had no complaint about the incident, which he attributed with motivating him to quit using crack cocaine. He was a § 87(2)(b)-old § 87(2)(b) his native country. § 87(2)(b) freely admitted that at the time of the incident he was addicted to crack cocaine and was high on it, but insisted that he nonetheless remembered events clearly. § 87(2)(b) went to the area looking for crack cocaine and picked up a woman known to him as § 87(2)(b). She got some money to buy drugs (not specified how), then had § 87(2)(b) pick up a dealer she knew (identified by investigation as § 87(2)(b)). Sara bought crack cocaine from him and gave two bags to § 87(2)(b) then left. § 87(2)(b) agreed to drive § 87(2)(b) around in exchange for crack. § 87(2)(b) had § 87(2)(b) pick up § 87(2)(b). They stopped in the area of 131st Street and Rockaway Boulevard and § 87(2)(b) got out for a little while. They were then pulled over almost immediately after leaving by an unmarked car using a flashing light but no siren. Two unidentified plainclothes white male officers got them out of the car and searched it. They let the men go after searching without finding anything. § 87(2)(b) and the others talked about how lucky they were as they drove away. § 87(2)(b) drove a short distance, and was again pulled over (exact location not recalled) by officers identified by investigation as Sergeant Norris' team. The car that had stopped them earlier also pulled up, but they stayed to the side and took no part in the incident.

As the car was stopped, § 87(2)(b) had tossed his two bags of crack onto the floor of the car in the driver's area. When § 87(2)(b) got out of the car, an officer identified by investigation as Officer Pearl saw the drugs. All three men were arrested and searched, then driven to the precinct in the back of the police car. Sergeant Norris drove § 87(2)(b)'s car. At the precinct, they were taken one by one to be strip searched, § 87(2)(b) and § 87(2)(b) first. § 87(2)(b) did not witness § 87(2)(b)'s search, but when the officer came to get § 87(2)(b) wearing gloves, he seemed amused and said to the room in general, "He had crack in his crack." § 87(2)(b) was searched in a bathroom across from the holding cells and stripped

entirely naked. The door to the bathroom remained open the entire time. § 87(2)(b) did not see § 87(2)(b) in the cells and has never seen him again.

§ 87(2)(b) (*witness*):

On February 14, 2003, IAB interviewed § 87(2)(b) (enc. 16A-16B), § 87(2)(b)'s mother. She did not witness the incident, but stated that § 87(2)(b) told her on February 13, 2003 that he had been stripped, handcuffed, and kicked in the testicles. He gave her shield #28682 (IAB notes that § 87(2)(b) gave them #86262) and claimed officers "were sticking him" with a metal tool on his buttocks. § 87(2)(b) called the CCRB on March 3, 2003 (enc. 16C) and confirmed that she only knew of the incident based on what she had been told by § 87(2)(b).

§ 87(2)(b) (*witness*):

After numerous unsuccessful field canvasses, § 87(2)(b) called IAB on February 21, 2003 (enc. 17A-17B). He stated that they were patted down from head to toe and handcuffed at the scene. He heard § 87(2)(b) yell at the scene because his groin was patted down. They were taken to the 113th Precinct and strip-searched one by one in a bathroom. § 87(2)(b) did not see § 87(2)(b)'s strip search, but heard him yell once from the bathroom. § 87(2)(b) never made any complaint when he returned to the cell.

Assistant District Attorney James Liander, Queens District Attorney's Office (witness):

On November 5, 2003, the Bureau Chief of the Queens District Attorney's Office Corruption Bureau, James Liander, called the CCRB (enc. 37G). He informed this investigator that his Bureau investigated the allegations and determined that the officers performed an illegal cavity on § 87(2)(b). The Bureau vouchered the tool the officers used. Because the search was illegal, the DA's Office reduced the charges against § 87(2)(b) to § 87(2)(b) and voluntarily suppressed the crack cocaine evidence. § 87(2)(g)

§ 87(2)(g) They admitted in the interviews that they used the tool to retrieve the drugs from the crevasse of § 87(2)(b)'s buttocks. § 87(2)(g)

Sergeant Richard Scantleberry, Queens District Attorney's Office (witness):

On November 17, 2003, this investigator spoke to Sergeant Richard Scantleberry by phone (enc. 37H). He interviewed the subject officers with Assistant District Attorney Starling. They told him the same thing they told the CCRB: that § 87(2)(b) had not cleaned himself and the baggy of drugs was stuck with feces to the area around his rectum, not inserted inside the rectum. The officers stated that § 87(2)(b) was not cooperating with spreading his buttocks apart and so they used the fishing tool to pick the bag of drugs out of the crevasse between his buttocks from the area of the rectum. The officers denied inserting the tool into § 87(2)(b)'s anus, but the DA's Office still classified it as a cavity search and treated the case accordingly. No written reports were prepared in relation to the investigation.

Officer Scott Carson (subject officer):

Officer Scott Carson was interviewed at the CCRB on November 5, 2003 (enc. 19A-19C). On February 12, 2003, he worked from 5:30 PM to 4:15 AM on the 113th Precinct Street Narcotics Enforcement Unit (SNEU) in street clothes. He and Officer Abrams used an unmarked van to do surveillance of 131 Street and Rockaway Boulevard, in the 106th Precinct. Sergeant Norris, Officer Asman, and Officer Pearl worked in the vicinity as the recovery team. Officer Carson noted in his memo book (enc. 18A-18B) that at 2:45 AM, he had § 87(2)(b) and § 87(2)(b) under arrest. He stated that he and Officer Abrams were watching out the tinted rear windows when § 87(2)(b)'s car parked right behind

them and the front seat passenger, identified by investigation as § 87(2)(b) sold crack cocaine from the car to at least three people. Officer Carson didn't know § 87(2)(b). None of the buyers were apprehended. When the car pulled away, Officer Carson gave the recovery team the description, plate number, and direction it was headed. He also mentioned that one of the brake lights was out. The recovery team stopped the car while he stayed about a block away to keep the surveillance vehicle a secret. Officer Carson got out and went up briefly on foot to confirm the arrests. While there, he saw crack cocaine in plain view, although he could not recall if it was two or three bags and couldn't remember where in the car it was. Officer Carson saw no struggle and never heard § 87(2)(b) yell. He went back to the van and they went to the precinct before the prisoners. At the precinct, he told the prisoners they would be strip searched, standard procedure for drug arrests. Officer Carson did the strip searches in the 113th Precinct prisoner bathroom, assisted inside by Officer Abrams and directly supervised by Sergeant Norris, who stood in the hallway just outside the open door. Prior to being stripped, the prisoners were all asked to voluntarily give up anything they might have. § 87(2)(b) pulled the sandwich bag from the back of his pants with approximately three baggies of crack inside it. They had no latex gloves that night, so they had him put it on the floor. He was strip searched with negative results, and then became an informant and provided the 113th SNEU with two search warrants. The strip search with § 87(2)(b) had negative results. § 87(2)(b) was just driving the other two around and had no useful information. § 87(2)(b) was strip searched the same way. When stripped down to his boxer shorts, he got nervous, although he denied having anything. The officers had him keep his hands on top of his head and Officer Carson got behind him, putting his foot behind § 87(2)(b)'s foot so he could feel any sudden moves. Officer Carson had his hands on top of § 87(2)(b)'s hands, on top of his head, and might have handcuffed him. The officers had him pull his boxers down, and Officer Carson saw a baggy sticking to his skin in the area at the top of the crevasse between his buttocks. The bag was not wedged between his buttocks. § 87(2)(b) said, "Alright, you got me." The officers told him to drop the bag, but he couldn't because it was stuck to him with sweat and feces. Because the officers had no gloves, Officer Carson decided to go get a tool he had in his locker, designed for fisherman to use to remove fish hooks from fishes' mouths. Officer Abrams took over holding § 87(2)(b) while Officer Carson got the tool, returning approximately one minute later. Officer Carson then pulled the bag loose from § 87(2)(b)'s body, dropped it to the floor, and kicked it into a voucher envelope. He denied pinching § 87(2)(b)'s buttocks with the tool or placing the tool inside § 87(2)(b)'s rectum. He also denied threatening to taser § 87(2)(b) or kicking him. There were eleven small baggies inside a sandwich baggy recovered from § 87(2)(b). He later tried to provide information, but it was too old for a warrant. According to Officer Carson's attorney, Michael Martinez of the PBA, the Queens District Attorney's office investigated § 87(2)(b)'s allegations and Officer Carson made a voluntary statement to them on March 14, 2003.

Officer Shannon Pearl and Officer Rebecca Asman (witness officers)

Officer Shannon Pearl (enc. 21A-21B) and Officer Rebecca Asman (enc. 23A-23B) were interviewed at the CCRB on November 5, 2003. Officer Pearl did not make any notes about this incident in her memo book (enc. 20A-20B). Officer Asman simply noted the arrests in hers (enc. 22A-22B). Both confirmed working on the recovery team and corroborated prior testimony about the stop, stating that Officer Pearl saw drugs inside the car in plain view when she approached and the men were therefore all arrested. They did not witness the strip searches.

Officer Donald Abrams (subject officer):

Officer Donald Abrams was interviewed at the CCRB on November 5, 2003 (enc. 24A-24C). He confirmed working with Officer Carson in the surveillance van. Officer Abrams did not have his memo book, § 87(2)(g). § 87(2)(b) Officer Abrams impression of the dealing they observed was that corner dealers were being "re-upped" by § 87(2)(b). They didn't give him any money for the drugs he gave them. Regarding the strip search, Officer Abrams stated that when § 87(2)(b) took down his boxer shorts, he clenched his buttocks but a baggy was visibly sticking out near the top of the crevasse between them, by the small of his back. § 87(2)(b) reached for the baggy when the officers said they saw it, and they grabbed his hands to keep him from getting it. Officer Abrams saw feces all over the bag and § 87(2)(b)'s buttocks, like he had partially lost control of his bowels. § 87(2)(b) kept fighting them and

saying he didn't have anything, and they told him they saw it. He could not recall if they handcuffed § 87(2)(b) and did not recall anyone pulling up on § 87(2)(b)'s hands to force him to lean forward and make it easier to access his buttocks. He denied that he or Officer Carson kicked § 87(2)(b). Because the baggy was covered with feces, Officer Carson got the tool, which was kept in their office for jobs like this, "just to flick it off of his cheek." Officer Abrams did not see Officer Carson pinch § 87(2)(b)'s buttock with the tool and denied that it was ever inserted into § 87(2)(b)'s rectum. The baggy was not inside § 87(2)(b)'s body, but was far from the anal opening, near the top of the crevasse between the buttocks. § 87(2)(b) was later interviewed privately and told Officer Abrams that the drugs were all his and said, referring to § 87(2)(b) "Listen, he's stupid. He's a stupid person." Officer Abrams got the impression § 87(2)(b) was trying to protect § 87(2)(b). Officer Abrams stated that his unit was considered to be the best SNEU team in the city, and mentioned that Sergeant Norris was one of the most decorated officers on the police force. He confirmed speaking with the Queens DA's Office about the incident.

Sergeant George Norris (subject officer):

Sergeant George Norris was interviewed at the CCRB on November 28, 2003 (enc. 26A-26D) and corroborated the accounts of Officer Pearl about the car stop and of Officer Carson and Officer Abrams about the strip search, with the variations noted below. Sergeant Norris denied frisking § 87(2)(b) at the scene or § 87(2)(b) getting upset or yelling. Sergeant Norris confirmed observing all of the strip searches through the open bathroom door while he stood in the hallway. All three of the men were stripped completely naked. There was normal foot traffic in the hallway during the searches, including a supervisor from an outside command who walked by while going to the Executive Officer's office at the other end of the hallway. When § 87(2)(b) was completely naked, the tip of a plastic baggy was sticking out from between his buttocks. § 87(2)(b) turned his body against the wall and put his hand behind him, so Officer Carson and Officer Abrams grabbed him so he wouldn't destroy the evidence. They pushed § 87(2)(b) face first to the wall and had him open his legs so they could get the drugs, but he did not comply. Officer Carson leveraged § 87(2)(b)'s legs apart with his own, but neither officer kicked § 87(2)(b). No one said they would get a taser. The baggy was covered with feces, "not like he had just gone to the bathroom, but like maybe he hadn't properly cleaned himself last time he did." Officer Carson got the tool while Officer Abrams held § 87(2)(b). When Officer Carson returned, he used the tool to give a "little pull to get it [the bag of drugs] out, because he was clenching his buttocks and he wasn't being very compliant." It came out and dropped to the floor. Sergeant Norris denied that the tool was inserted into § 87(2)(b)'s anus or used to pinch his buttock. Sergeant Norris denied being told by the DA's Office that they thought there was something wrong with the search of § 87(2)(b) although he confirmed that they took the tool.

Medical records:

§ 87(2)(b) was examined at § 87(2)(b) on February 14, 2003 (enc. 27A-27K). He told medical personnel he had been kicked in the testicles the day before and an instrument had been inserted in his rectum. He claimed slight groin pain and denied rectal bleeding. No swelling was noted to the testicles, scrotum, or rectum, and there was no rectal tearing or bruising. An x-ray of the abdomen was negative for foreign bodies. He was diagnosed with alleged assault/groin strain and released.

Police documents:

The 113th Precinct command log (enc. 28A-28C) notes the arrests and that they were strip searched. Their arrest reports (enc. 28D-28I) show that eleven bags of crack were found when § 87(2)(b) was searched. § 87(2)(b) was also charged with § 87(2)(b), but the narrative does not say why.

Visit to 113th Precinct stationhouse:

On September 4, 2003, the undersigned and Investigator Hui were given a tour of the 113th Precinct during a visit on an unrelated matter (enc. 37F). The prisoner bathroom is located across from the holding cell

area and is not visible from the cells. It is in a hallway running to the right of the desk (when facing the desk). The bathroom is a small room matching § 87(2)(b)'s description. Deputy Inspector Essig, who conducted the tour, also showed the investigators the SNEU team's room on the second floor. No tool like that described by § 87(2)(b) was seen.

Examination of the tool:

On December 9, 2003, this investigator and Investigator Hui examined and photographed the tool at the Queens District Attorney's Office (enc. 29A-29B). The tool was in a plastic evidence bag, marked with docket number § 87(2)(b) and index numbers § 87(2)(b) and § 87(2)(b). The tool is approximately one foot long and approximately three-quarters of an inch wide from side to side. The shaft of the tool is approximately one-half of an inch tall. The entire tool is made of a thick-gauge steel, which is folded into a "U" shape to form the handles. The handle is open at rest, and joins to the body of the instrument at approximately four inches. At approximately ten and a half inches, the gripping end of the tool begins. The grip consists of two flat metal tongues joined to the body by a hinge. The tongues are each approximately one inch long and rounded at the end. They are spread open to a span of approximately one inch when at rest and have slight grooves across them, but no teeth. The examination makes it clear that, in order to be inserted through the anal sphincter, the gripping end of tool would have to be closed. The tool appears small enough to enter an anus without causing trauma, and the gripping tongues are rounded and smooth. The tool, however, is large enough that it appears that any drugs inside would be pushed farther into the rectum. In order to retrieve drugs, the gripping end would have to be opened while inside the anal cavity, and then closed again to grip the drugs. Because the gripping tongues open to a very wide angle, the tool appears poorly-suited for grabbing small objects inside a narrow body cavity.

Outcome of criminal case:

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Prior convictions and administrative discipline:

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Sergeant Norris received a command discipline in relation to CCRB 9604906, for an unspecified abuse of authority (enc. 34A). He received another command discipline in relation to an improper vehicle stop and search, and the improper search of a person, stemming from CCRB 9605290 (enc. 34B). He was found guilty at DCT of a bad car search in relation to CCRB 200107065 and lost five vacation days (enc. 34D).

Officer Carson was found guilty at OATH of discourtesy and offensive language in relation to CCRB 200000798 and was suspended for 15 days (enc. 35A).

An other misconduct (false official statement) claim against Officer Abrams was referred to IAB by the Board, where it is currently under investigation. Officer Abrams, Officer Pearl, and Officer Asman have not been subject to any discipline known to the CCRB.

Civil lawsuit:

§ 87(2)(b) did not file a notice of claim or a lawsuit in relation to this incident (enc. 37H).

Conclusions and Recommendations

Officer identification:

Sergeant Norris stipulated that the strip searches were conducted in the 113th Precinct prisoner bathroom under his supervision. As the supervisor, the allegation of the cavity search is also pled against Sergeant Norris although he did not actually conduct the search. § 87(2)(b) alleged that he was repeatedly cursed at, kicked in the testicles, threatened with a taser, and forced to bend over by the officer who conducted the strip search. Officer Carson stated the he was officer who conducted the strip search, backed by Officer Abrams. § 87(2)(b) claimed that this backup officer, Officer Abrams, was the one who actually handled the tool and pinched his buttock with it. Although the officers claim it was Officer Carson using the tool, § 87(2)(b)'s testimony is clear on this point, because he alleged that the main officer (Officer Carson) continued to hold him in a bent-over position while the backup officer (Officer Abrams) handled the tool.

Issues of fact:

§ 87(2)(g) [REDACTED]

It is undisputed that the three men were at 130th Street and Rockaway Boulevard, where § 87(2)(b) [REDACTED] apparently engaged in dealing that was observed by Officer Carson and Officer Abrams. While the first unit that stopped the car could not be identified, § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] had no complaint about that stop. § 87(2)(b) [REDACTED] confirms that crack cocaine was in plain view in the car when Officer Pearl approached. All parties agree that Officer Carson was unhappy with the level of § 87(2)(b) [REDACTED]'s cooperation during the strip search, and all agree that eventually, eleven pieces of crack cocaine were removed from his body.

§ 87(2)(g)

Credibility:

§ 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED] While Officer Abrams and Sergeant Norris stated that § 87(2)(b) [REDACTED] tried to grab the baggy when the officers saw it, Officer Carson stated that he had already pinned § 87(2)(b) [REDACTED]'s hands to his head

to prevent just that. Officer Carson and Officer Abrams described the baggy as being stuck to § 87(2)(b)'s body with sweat and feces, not clenched between his buttocks. However, Sergeant Norris described the baggy as sticking out from between his buttocks and being pulled out from between them because he would not unclench them and let the officers get the drugs loose. § 87(2)(g)

Allegation A: Abuse of Authority: Sergeant George Norris supervised a strip-search of § 87(2)(b)

Patrol Guide Procedure 208-05 (enc. 1A-1B) states that a strip search will be used when there is reason to believe that weapons or contraband are concealed on a person that would not be discovered by other searches, and specifies that “[a] strip search will be conducted by a member of the same sex as the arrested person in a secure area in utmost privacy and with no other arrestee present.” § 87(2)(g)

However, it is undisputed that § 87(2)(b) was searched by two officers in a bathroom with the door open, while Sergeant Norris observed from the hallway and the doorway. By Sergeant Norris’ own admission, there was normal foot traffic in the hallway during the search, and specifically, a high-ranking officer from an outside command walked past on the way to the 113th Precinct Executive Officer’s office at the other end of the hallway. § 87(2)(g)

Allegation B: Discourtesy: Officer Scott Carson spoke obscenely and rudely to § 87(2)(b)

PG 203-09 requires that officers “[b]e courteous and respectful.” § 87(2)(g)

Allegation C: Abuse of Authority: Officer Scott Carson threatened § 87(2)(b) with the use of force.

Threats of force are justified where the force itself would be justified. Use of force is governed by PG 203-11 (enc. 1C-1D), which requires that officers use force that is “minimal” only when it is “necessary.” § 87(2)(g)

Allegation D: Force: Officer Scott Carson used physical force against § 87(2)(b)

Allegation E: Force: Officer Donald Abrams used physical force against § 87(2)(b)

As discussed above, PG 203-11 (enc. 1C-1D) requires that officers use “minimal necessary” force. § 87(2)(b) was consistent in alleging that Officer Carson kicked him once in the testicles, and in alleging that Officer Abrams pinched him once on the buttock with the tool. § 87(2)(g)

Allegation F: Abuse of Authority: Sergeant George Norris supervised a cavity search of § 87(2)(b)

The only reference in Police Department training materials regarding a cavity search is in PG 208-05 (enc. 1A-1B), which states, in the context of describing strip search procedures, that “UNDER NO CONDITIONS SHALL A BODY CAVITY SEARCH BE CONDUCTED BY ANY MEMBER OF THE SERVICE. If a body cavity search is considered necessary, the desk officer will be advised and his instructions complied with” [emphasis in original]. The department does not provide instructions for the desk officer on how to handle any such requests. § 87(2)(g)

The finding of the Queens District Attorney’s Office, as expressed to the undersigned, was that the search constituted an illegal body cavity search despite the officers’ denials that the tool was inserted into § 87(2)(b)s rectum. Sergeant Norris, as the subject of the allegation and the supervisor overseeing the search, testified that the baggy was removed from between § 87(2)(b)s buttocks. § 87(2)(b) consistently insisted that he felt the cold metal of the tool touching his flesh of his anus as it was used to remove the baggy from inside his anal opening. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: